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October 4, 2004

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Access to Confidential Materials in WC Docket No. 04-313 and
CC Docket No. 01-338.**

Dear Ms. Dortch:

By two separate letters dated September 30, 2004, the law firm of Kelley Drye & Warren, LLP, submitted "Acknowledgements of Confidentiality" on behalf of fifteen individuals seeking access to confidential information filed in the above-referenced proceedings.¹ Pursuant to paragraph 8 of the Protective Order adopted in these proceedings,² the Verizon telephone companies (collectively, "Verizon") hereby object to the disclosure of Confidential Information to two of the fifteen individuals designated in those letters: Rebecca H. Sommi and Michael Hou.

The Protective Order provides that Confidential Information filed with the Commission in this proceeding may not be provided to persons "involved in competitive decision-making." Protective Order ¶ 2. It appears that Ms. Sommi and Mr. Hou are not eligible to have access to Confidential Information under this standard.

¹ See Letter from Jennifer M. Kashatus, Kelley Drye & Warren, LLP, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-313, CC Docket No. 01-338 (FCC filed Sept. 30, 2004); Letter from Stephanie A. Joyce, Kelley Drye & Warren, LLP, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-313, CC Docket No. 01-338 (FCC filed Sept. 30, 2004).

² Order, *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 41-313; CC Docket No. 01-338, DA 04-3152 at Attachment A (FCC rel. Sept. 29, 2004) ("Protective Order").

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Ms. Sommi is described as Vice President, Operations and Support, of Broadview Networks, Inc. Mr. Hou is described as Senior Vice President of Broadview Networks, Inc. The titles of both individuals indicate that they are likely to be involved in competitive decision-making, i.e., involved in advising or participating in business decisions made in light of the type of confidential information provided in this proceeding. *See* Protective Order ¶ 2.

Based on the information in the record, neither Ms. Sommi nor Mr. Hou is eligible to have access to Confidential Information pursuant to the Protective Order, and Verizon objects to these individuals' having access to Confidential Information submitted in these proceedings without further clarification of their positions. In view of Verizon's objections, Ms. Sommi and Mr. Hou may not have access Confidential Information unless and until Verizon's objections are resolved in their favor by the Commission and, if appropriate, any court of competent jurisdiction. *See* Protective Order, ¶ 8.

Respectfully submitted,

/s/ J.C. Rozendaal

J.C. Rozendaal
Counsel for the Verizon telephone companies

cc: Jennifer M. Kashatus, Kelley Drye & Warren, LLP (via facsimile and overnight delivery)
Stephanie A. Joyce, Kelley Drye & Warren, LLP (via facsimile and overnight delivery)